

MINUTES

INDIANA RESPIRATORY CARE COMMITTEE

APRIL 23, 2010

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Mr. Konkle called the meeting to order at 10:00 a.m. in Professional Licensing Agency Conference Room W064, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

Committee Members Present:

Thomas Konkle, R.C.P., Chairman
Sally Park-Teelon, R.C.P., Member
Gary L. Smith, R.C.P., Member

Committee Members Absent:

Margaret Sullivan, Consumer Member

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Heather Hollcraft, Assistant Board Director, Professional Licensing Agency
Elizabeth Brown, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF THE AGENDA

A motion was made and seconded to adopt the agenda.

PARK-TEELON/SMITH
Motion carried 3-0-0

III. ADOPTION OF THE MINUTES FROM JULY 17, 2009 AND OCTOBER 16, 2009 MEETINGS OF THE COMMITTEE

A motion was made and seconded to adopt the minutes from the July 17, 2009 and October 16, 2009 meetings.

PARK-TEELON/SMITH
Motion carried 3-0-0

IV. APPEARANCES

A. APPLICATION

1. Brian D. Abbott

Mr. Abbott appeared before the Committee, as requested, regarding his application for licensure by examination. Mr. Abbott is a 1999 graduate from Cayahoga Community College and has taken and passed the NBRC on July 10, 1999. He is currently licensed in the state of Ohio. On his application he answered "yes" to question 5B which asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" and to question 2 which asks "Has disciplinary action ever been taken regarding any license, registration or permit to practice respiratory care or any regulated health profession in any state (including Indiana) or country?" In March of 1993 in Anthen, Ohio Mr. Abbott was charged and convicted of a minor misdemeanor for disorderly conduct. He was at a party and was charged for disorderly conduct resulting from an altercation he was not directly involved in. Mr. Abbott states everyone at the party was charged. He was required to pay a \$500.00 fine. In August of 2000 Mr. Abbott has also been disciplined by the Ohio Respiratory Care Board for failure to complete 6 six hours of continuing education and was fined \$100. The Committee advised Mr. Abbott that his Indiana license will expire on December 31, 2010 and continuing education will not be required for this renewal but he will be required to show proof of fifteen (15) hours of continuing education for the 2012 renewal.

Committee action: A motion was made and seconded to grant Mr. Abbott a respiratory care practitioner license.

KONKLE/SMITH
Motion carried 3-0-0

2. Robert Flanagan

Mr. Flanagan did not appear before the Committee, as requested, regarding his application for licensure by examination. Mr. is a 2009 graduate from IVY Tech College and passed the NBRC on January 15, 2010. He is not currently licensed in any state. On his application he answered "yes" to question 5B which asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" In November of 2003 in Hancock County, Indiana he was arrested for a misdemeanor operating while intoxicated and on March 26, 2004 he plead guilty to this charge.

Committee Action: A motion was made and seconded to deny Mr. Flanagan's application for a respiratory care practitioner license based upon his conviction and failure to appear as requested.

KONKLE/SMITH
Motion carried 3-0-0

3. James Craig Helmer

Mr. Helmer appeared before the Committee, as requested, regarding his application for licensure by examination. Mr. Helmer is a 2009 graduate from Ferris State University and passed the NBRC examination on January 29, 2010. On his application he answered "yes" to question 4 that asks, "Are you now being, or have you ever been treated for drug or alcohol abuse?" and question 5B that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" In May of 2000 he received an unlawful blood alcohol content ticket and/or driving under the influence. He pled guilty to this charge in August of 2000. Mr. Helmer was placed on probation for a period of 2 years and had to complete an evaluation; attend AA meetings, attend a victim impact panel and pay fines. The probation lasted approximately 1 year since he completed all requirements early.

Committee Action: A motion was made and seconded to grant Mr. Helmer a respiratory care practitioner license.

KONKLE/PARK-TEELON
Motion carried 3-0-0

4. Tamara Sue Lutz

Ms. Lutz appeared before the Committee, as requested, regarding her application for licensure by endorsement. Ms. Lutz is a 1991 graduate from Blackhawk College and has passed the NBRC on March 14, 1992. She is currently licensed in the states of Illinois and Iowa. On her application she answered "yes" to question 2 that asked "Has disciplinary action ever been taken regarding any license, certificate, registration or permit you hold or have held?" On December 8, 2005 she pled guilty to Second Degree (felony) theft in violation of Iowa Code. The theft involved respiratory care devices owned by her employer and returned to her from clients. Ms. Lutz failed to return the devices to her employer's warehouse when they were picked up and failed to return them when she terminated her employment on about April 26, 2005. Between February 2005 and May 2005 she and her accomplice, Cassie Dierks, sold the stolen

respiratory care devices to at least five different individuals. Ms. Lutz removed the serial numbers from the devices in order to make tracking more difficult. This also made the devices subject to service restriction by the manufacturer. When selling the devices false statements were made about the origin and prior use of the device. The respiratory care devices were sold without Ms. Lutz or her accomplice knowing whether the buyer had a prescription for the device or knowledge or professional assistance in its operation. The public and use of respiratory care devices may be harmed if the device is not properly maintained and set for a user's assessed need.

The Iowa Respiratory Care Board suspended her respiratory license for a period of 90 days. Upon reinstatement her license it was placed on probation for 270 days with terms and conditions. Probation was terminated on January 28, 2008. On January 28, 2008 the Illinois Respiratory Care Board issued a Reprimand based upon the action taken in the State of Iowa. Ms. Lutz stated during the appearance that she was terminated from Kishwaukee Community Hospital based upon action taken by the Illinois Board. The Committee stated that she did not respond "yes" to the question regarding dismissal from a facility. Ms. Lutz told the Committee that she would like a license in Indiana because of a job offer from a company in Florida that has a position available in Indiana.

Committee action: A motion was made and seconded to deny Ms. Lutz's application for a respiratory care practitioner license because of the disciplinary action taken by the state of Iowa.

PARK-TEELON/KONKLE
Motion carried 3-0-0

5. Elizabeth Ann Morris

Ms. Morris appeared before the Committee, as requested, regarding her application for licensure by examination. Ms. Morris is a 2009 graduate from IVY Tec College and has taken and passed the NBRC examination. Ms. Morris was asked to appear because she working without a license or a temporary permit since graduation. She explained the instructor gave the class insight on how to obtain a temporary license until she was able to take the CRT portion of the National Board of Respiratory Care examination. She then stated that she interviewed at Marion General Hospital where they advised her not to apply for the temporary indicating that if she failed the CRT, her temporary would not be valid any longer and they could not use her during that period of time until she attained her license. Ms. Morris told the Committee she took that information back to the school and

they advised her to do what the prospective employer stated. She subsequently turned in paperwork that she thought was required for licensure to the employer and they never asked her to provide a copy of her license. Ms. Morris stated a new person in human resources told her in March of 2010 that she did not have a license. Ms. Morris did state that she never looked at the temporary permit instructions or the information on licensure information which is on the Agency's website. Marion General has told Ms. Morris that she could come back once she is licensed if the position was still available. She also told the Committee that she has had others contact her with offers of employment.

Committee Action: A motion was made and seconded to grant Ms. Morris a respiratory care license of Indefinite Probation with the following terms and conditions.

1. The Applicant's license as a respiratory care practitioner is placed on **INDEFINITE PROBATION**.
2. The Applicant shall research and familiarize herself with the rules and regulations for licensure of respiratory care practitioners in the State of Indiana and shall give an oral presentation on this topic to a class of respiratory care students at Ivy Tech Community College in Lafayette and to the staff of the Respiratory Care Department at Marion General Hospital.
3. The Applicant shall provide the Committee with a written copy of the oral presentation that she prepared and written verification that she completed both presentations as required.
4. The Applicant shall keep the Committee apprised of her home address, mailing address, and telephone number.
5. The Applicant shall keep the Committee apprised of her place of employment, employment telephone number, and name of supervisor.
6. The Applicant may request a hearing to withdraw probation after completing the required presentations.
7. The failure of Applicant to comply with the requirements of probation may subject her to a show cause hearing before the Committee and the imposition of further sanctions.

KONKLE/SMITH
Motion carried 3-0-0

6.

6. Mary Lucille Toner

Ms. Toner appeared before the Committee, as requested, regarding her application for licensure by endorsement. Ms. Toner is a 1990 graduate from Independence University and has taken and passed the

NBRC examination on November 10, 1990. Ms. Toner answered "yes" to question 5B that asks "Have you ever been convicted of, plead guilty or nolo contendere to any offense, misdemeanor or felony in any state?" In May of 2003, in Grant Michigan, Ms. Toner was convicted of driving under the influence. She was ordered to pay court fees and a fine. Ms. Toner was celebrating a birthday with friends. She was pulled over and charged with driving under the influence. She had a BAC of .12. Ms. Toner has completed all court requirements that included counseling and attending Alcoholics Anonymous meetings. She currently works in Clare, Michigan but would like a license in Indiana as she plans to move to Bloomington to be closer to her family.

Committee Action: A motion was made and seconded to grant Ms. Toner a respiratory care practitioner license.

SMITH/PARK-TEELON
Motion carried 3-0-0

B. PROBATION

There were no probation appearances scheduled.

C. RENEWAL

There were no renewal appearances scheduled.

V. ADMINISTRATIVE HEARINGS

A. State of Indiana vs. Brenda Grays, R.C.P., License No. 30001304A

Administrative Cause No. 2009 RCC 0009

Re: Complaint

Parties and Counsel Present:

Respondent was present without counsel

Mark Mader, Deputy Attorney General for the State of Indiana

Sherry Rutledge, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)

Ms. Park-Teelon

Mr. Smith

Case Summary: A hearing was set in the matter of a Complaint that was filed on September 8, 2009. On September 25, 2005, Respondent was terminated from American Senior Communities for reporting to work under the influence of alcohol. Respondent's blood alcohol level was .059. on or about December 31, 2006, Respondent renewed her Indiana respiratory care license and answered "No" to all questions including question number three which asks, "Since you last renewed, have you been denied staff membership or privileges in any hospital or health care facility or have staff membership or privileges been revoked, suspended, or subjected to any restriction, probation, or other type of discipline or limitations? In April of 2007, Respondent began employment at Johnson Memorial Hospital located in Franklin, Indiana. On November 15, 2007, Respondent received a verbal warning for giving a patient treatment without an order. On January 14, 2008, Respondent received a written warning for not carrying her pager when a patient needed attention and she could not be located for over an hour. On February 25, 2008, Respondent was arrested after her shift in Johnson Memorial Hospital's parking lot. Respondent was charged with Driving on a Suspended License, Possession of Marijuana, and Possession of Paraphernalia, all Class A Misdemeanors. According to the Probable Cause Affidavit, Respondent had two bags of marijuana, one joint, four roaches, one pack of Zig-Zags and miscellaneous paraphernalia in her care. On March 5, 2008, Respondent was terminated from Johnson Memorial Hospital for violating hospital policy by having possession of illegal drugs on hospital property. On March 26, 2009, Respondent pled guilty to Driving While Suspended and Possession of Marijuana, both Class A Misdemeanors. Respondent was placed on criminal probation for one year. Respondent told the Committee subsequent to the occurrence of these charges against her License, she had suffered two severe strokes which left her incapacitated. Further, she was unable to work and received Supplemental Security Income (SSI) because of her incapacity as her sole means of support and her incapacity was permanent. Respondent testified she would never be able to work again as a respiratory care practitioner and she realized her license had been expired since December 31, 2008. When asked by a Committee member if she would like to voluntarily surrender her license, Respondent answered that she would.

Committee action: A motion was made and seconded to accept the voluntary surrender of Ms. Gray's respiratory care practitioner license.

KONKLE/PARK-TEELON

Motion carried 2-0-1

*Mr. Smith abstained

- B. State of Indiana vs. Mallory Leffers, R.C. P., License No. 30007518A**
Administrative Cause No. 2009 RCC 0011
Re: Petition for Withdrawal of Probation

Parties and Counsel Present:

Petitioner was present without counsel
Mark Mader, Deputy Attorney General for the State of Indiana
Sherry Rutledge, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: The Practitioner's probation resulted from findings by the Committee that the Practitioner was convicted of misdemeanor criminal conversion and placed on unsupervised probation for one (1) year which was scheduled to end in December 2009. The Practitioner submitted a request to the Committee in December 2009, requesting that her probationary status be withdrawn. The Practitioner successfully completed the terms of her criminal probation. The Practitioner has demonstrated compliance with the terms and conditions of her probation except for having her employer submit a quarterly report as required by item number 4 in the Committee's decision dated October 30, 2009. The State did not object to the withdrawal of probation. The deficiency that required disciplinary action has been remedied provided that the required employer report is submitted. Petitioner is currently employed by Kosciusko County Hospital.

Committee Action: A motion was made and seconded to withdraw the probation of Ms. Leffers respiratory care practitioner license upon completion of her probation terms to include a report from her supervisor for January and April 2010.

KONKLE/SMITH
Motion carried 3-0-0

- C. State of Indiana vs. Cheryl Darlene Tennis, R.C.P., License No. 3002234A**
Administrative Cause No. 2009 RCC 0010
Re: Petition for Withdrawal of Probation

Parties and Counsel Present:

Petitioner was present without counsel
Mark Mader, Deputy Attorney General for the State of Indiana
Sherry Rutledge, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: The Committee issued a decision on April 25, 2003, placing the Practitioner on indefinite probation subject to certain terms and conditions and the right to petition for withdrawal of the probation after two (2) years from the date of the decision. The Practitioner's probation resulted from findings by the Committee that the Practitioner was convicted on May 9, 2001, of being a habitual traffic offender, a class D felony, and that she was on criminal probation for that offense. The Practitioner submitted a request to the Committee on December 31, 2009, requesting that her probationary status be withdrawn. The Practitioner successfully completed the terms of her criminal probation. The Practitioner has demonstrated compliance with the terms and conditions of her probation except for having her employer submit the quarterly reports as required by the Committee's decision dated April 25, 2003. The State did not object to the withdrawal of probation. The deficiency that required disciplinary action has been remedied provided that a final employer quarterly report is submitted. The Practitioner's request to withdraw order of probation is granted on the condition that the Practitioner have her employer submit a final quarterly report and that probation remain in effect until the report is received by the Committee. She stated she currently works for Vermillion Convalescence Center.

Committee action: A motion was made and seconded to withdraw the probation of Ms. Tennis' respiratory care practitioner license contingent upon completion of her probation terms to include a final report from her employer.

KONKLE/PARK-TEELON
Motion carried 3-0-0

VI. NOTICE OF PROPOSED DEFAULT/DISMISSAL

- A. Robert William Parish, R.C.P., License No. 30003465A**
Administrative Cause No. 2007 RCC 0001
Re: Notice of Proposed Default

Parties and Counsel Present:

Respondent was present without counsel
Mark Mader, Deputy Attorney General for the State of Indiana
Sherry Rutledge, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: Respondent failed to appear for the disciplinary hearing scheduled for October 16, 2009. Notice of the hearing was mailed by certified

mail to the Respondent on September 9, 2009. The Committee finds Respondent to be in default.

Committee action: A motion was made and seconded to hold Mr. Parrish in default.

KONKLE/PARK-TEELON
Motion carried 3-0-0

Case Summary: On February 23, 2007, the Committee issued a decision following a personal appearance in which the Practitioner's license was renewed on indefinite probation, subject to certain terms and conditions, with no right to request withdrawal of probation for two (2) years from the date of the decision. The license probation resulted from findings by the Committee that the Practitioner had been terminated from his employment with Select Specialty Hospital as a result of being at work while under the influence of a controlled substance. On December 26, 2007, the Committee issued an Order to Show Cause because the Practitioner had not submitted a standing order from a physician for random urine tests for drug and alcohol use and had not provided the Committee with employment information or quarterly reports from his employer. Following a hearing on January 25, 2008, the Committee found that the Practitioner had violated IC 25-1-9-4(a)(10) because of his failure to comply with the Committee's order of probation; specifically, his failure to provide a written standing order for random urine tests for drug and alcohol use and failure to provide the Committee with information about his employment situation. The Committee found that the Practitioner's probation violation did not warrant further disciplinary sanctions since he had not been employed as a respiratory care practitioner while on probation and he was residing in a residential drug and alcohol treatment facility where he was subject to random drug and alcohol screening. The Committee issued an order on February 6, 2008, finding that the Practitioner's license remained on indefinite probation subject to the terms and conditions of probation listed in the Committee's order dated February 23, 2007. On September 9, 2009, the Committee issued an Order to Show Cause why Practitioner's license should not be summarily suspended or other disciplinary action taken due to noncompliance with the terms of his probation; specifically, his failure to keep the Committee informed of his employment and quarterly reports from his employer had not been received for February, May, August, and November of 2008 and February and May of 2009. The Practitioner failed to respond to the Committee's Order to Show Cause and Notice of Proposed Default. The Practitioner has not provided any evidence that he is in compliance with the terms of his probation and has not shown cause why further disciplinary action should not be imposed due to noncompliance with the probationary terms set forth in the Committee's orders of February 23, 2007, and February 6, 2008.

Committee action: A motion was made and seconded to indefinitely suspend Mr. Parrish's respiratory care practitioner license. He may not petition to reinstate his license for a period of 99 years.

B. Mark J. Wilcox, R.C.P., License No. 30006822A

Administrative Cause No. 2007 RCC 0005

Re: Notice of Proposed Default

Parties and Counsel Present:

Respondent was present without counsel

Mark Mader, Deputy Attorney General for the State of Indiana

Sherry Rutledge, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)

Ms. Park-Teelon

Mr. Smith

Case Summary: Respondent failed to appear for the disciplinary hearing scheduled for October 16, 2009. Notice of the hearing was mailed by certified mail to the Respondent on September 9, 2009. The Committee found Respondent to be in default.

Committee action: A motion was made and seconded to hold Mr. Wilcox in default.

KONKLE/SMITH

Motion carried 3-0-0

Case Summary: On June 5, 2007, the Committee issued a decision following a personal appearance in which the Practitioner was granted a license on indefinite probation, subject to certain terms and conditions, with no right to request withdrawal of probation for two (2) years from the date of the decision. The license probation resulted from findings by the Committee that the Practitioner had two convictions for Driving Under the Influence (DUI). The first DUI arrest occurred in December 2004 and the second DUI arrest was in January 2005. On August 26, 2009, the Committee issued an Order to Show Cause why Practitioner's license should not be summarily suspended or other disciplinary action taken due to noncompliance with the terms of his probation; specifically, his failure to submit quarterly reports for December 2008, March 2009, and June 2009 of his attendance at AA/NA meetings. The Practitioner failed to respond to the Committee's Order to Show Cause and Notice of Proposed Default. The Practitioner has not provided any evidence that he is in compliance with the terms of his probation and has not shown cause why further disciplinary action should not be imposed due to

noncompliance with the probationary terms set forth in the Committee's decision of June 5, 2007.

Committee action: A motion was made and seconded to indefinitely suspend Mr. Wilcox's respiratory care practitioner license. He may not petition the Committee for a hearing to lift the suspension for a period of 99 years.

KONKLE/SMITH
Motion carried 3-0-0

VII. VOLUNTARY SURRENDER OF LICENSE

There were no voluntary surrenders before the Committee.

VIII. SETTLEMENT AGREEMENTS

There were no settlement agreements.

IX. OLD/NEW BUSINESS

There was no old/new business to discuss.

X. DISCUSSION

A. Continuing Education

1. Webinars

The Committee discussed the question concerning "webinars". They stated if the person is attending one while it is being presented live and can ask questions during the meeting, then it should be no different than attending a live seminar and will count towards seminar continuing education hours. However, if the person is watching a video of the webinar, it will be considered self-study. Category 1 is live presentation and noted by AARC as such on their certificates.

B. General Discussion

1. ROEC

Legislature passed a law that is coming up with a committee that is an oversight committee for the IPLA. Board presidents and committee

chairmen will be speaking individually with Lisa Bentley, Deputy Director, regarding the committee.

2. Student Temporary Respiratory Permits

Ms. Vaught discussed with the committee and audience that for a student permit, that the application parts that are submitted from the employer and school must come directly from those entities and not submitted from by the applicant. This change was made due to fraudulent documents being presented by applicants in another profession.

3. Professional Licensing Agency

Ms. Vaught discussed changes within the Professional Licensing Agency due to budget constraints. The state is looking at ways to be more efficient in business expenditures. The state no longer issues pocket cards upon each renewal or for initial licensing. Licensees must go online to purchase or download a copy of their license if they wish to have one. Senate Bill 356 combined the cosmetology and barbers boards and ended the hypnotists and environmental health specialists' boards.

XI. APPLICATION REVIEW

A. Endorsement

There were no endorsement applications for review.

B. Examination

There were no examination applications for review.

C. Credentials

There were no credential applications to review.

D. Temporary Permits

There were no temporary permits to review.

E. Student Permits

There were no student permits to review.

XII. PROBATIONARY REPORT

There were no probationary reports for review.

XIII. CONTINUING EDUCATION

There was no continuing education for review.

XIV. OTHER ITEMS FOR CONSIDERATION

The following respiratory care practitioners, who are currently on probation, have not submitted their reports in a timely fashion as required by their orders:

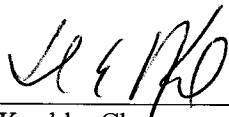
Charles Hodges
Stephan Aponte
Mary Smith

Committee action: A motion was made and seconded to issue an Order to Show Cause to each of them to appear at the July 23, 2010 meeting.

KONKLE/SMITH
Motion carried 3-0-0

XV. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana Respiratory Care Committee adjourned at 2:30 p.m.



Thomas Konkle, Chairman



Date